

CASE NO. 29-RC-172410
REQUEST FOR REVIEW
EXHIBIT A-3
(DECISION AND DIRECTION OF
ELECTION CASE NO. 29-RC-172410)

**UNITED STATES GOVERNMENT
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29**

NEW YORK METHODIST HOSPITAL AND
MSO OF KINGS COUNTY, LLC, A SINGLE EMPLOYER

and

Case No. 29-RC-172410

1199 SEIU, UNITED HEALTHCARE WORKERS EAST

DECISION AND DIRECTION OF ELECTION

New York Methodist Hospital ("the Hospital"), is an acute care hospital located in Brooklyn, New York, where 1199 SEIU, United Healthcare Workers East ("1199" or "the Petitioner") currently represents unit(s) of professional and non-professional employees.

MSO of Kings County, LLC ("MSO") provides administrative/management services to the Hospital's off-site centers and physician practices affiliated with the Hospital at various locations, including the Urology practice located at One Prospect Park West, Suite C, Brooklyn, New York (also known as "Brooklyn Urology").

1199 filed a petition in the instant case under Section 9(c) of the National Labor Relations Act ("the Act") seeking to add certain professional and nonprofessional employees employed by the Hospital/MSO at the Urology practice located at One Prospect Park West, Suite C, to its existing bargaining unit(s) of Hospital employees.¹ More specifically, the Petitioner seeks *Armour-Globe* self-determination election(s) in which employees in the classifications of physician assistant, office assistant, administrative assistant, clinical assistant (LPN) and patient assistant/medical assistant at the Urology practice located at One Prospect Park West would vote whether or not they wish to be included in existing Hospital professional, clerical, technical

¹ While the petition in the instant case indicated that the unit sought included "all full time and regular part time professional and nonprofessional employees employed by the New York Methodist Hospital/MSO of Kings County, LLC at Urology Clinic Care Center, 1 Prospect Park West, Suite C, Brooklyn, New York, residual to the existing professional and nonprofessional unit represented by 1199 SEIU at Methodist Hospital. [Titles to be included Office Assistant, Administrative Assistant, Patient Assistant, Licensed Practical Nurse, Medical Assistant, Clinical Assistant and Physician Assistant]," the Petitioner clarified at the hearing (and in its Memorandum of Points and Authorities) that it seeks to add the petitioned-for employees to the existing unit(s) represented by the Petitioner at the Hospital by a self-determination election. At the hearing, the Petitioner stipulated that it was not seeking to represent the clinical nurse (RN) position at the Urology practice. I note that the evidence shows that the Hospital operates a Urology clinic which is separate from the Urology practice at One Prospect Park West and is not the subject of this petition. It is also noted that on the same day the instant petition was filed, 1199 also filed a petition in Case No. 29-RC-172398 seeking to represent certain employees of the Hospital/MSO at the Wound Care and Hyperbaric Center ("the Wound Care Center") located at One Prospect Park West, Suite B. Administrative notice of the record in that case is taken herein.

and/or service unit(s).² Should I find self-determination elections to be inappropriate, the Petitioner indicated a willingness to proceed to an election in any unit that I find appropriate.

The Petitioner named the Hospital/MSO as the Employer of the petitioned-for employees. In this regard, the Petitioner asserts that the Hospital employs the petitioned-for employees and that MSO is nothing more than a division or department of the Hospital, created as a "shell employer" for Hospital affiliated clinics and physician practices. In the alternative, the Petitioner asserts that the Hospital and MSO constitute a single employer. MSO takes the position that it is the employer of the petitioned-for employees at the Urology practice; the Hospital contends that it is not the employer of such petitioned-for employees. Both the Hospital and MSO contend that the petition names the wrong employer and that the Hospital and MSO are not a single employer, joint employer or alter egos within the meaning of the Act. The Hospital and MSO also contend that a self-determination election is not permissible inasmuch as it could result in an overly broad unit consisting of employees of an acute care hospital and a non-acute care entity, and that the only appropriate unit is a stand-alone unit of certain MSO employees at the Urology practice.³

On April 5, 6, 7, 11, 12 and 13, a Hearing Officer of the Board held a hearing in this matter, the parties orally argued their respective positions prior to the close of the hearing and thereafter each submitted a Memorandum on Points and Authorities. I have considered the record and relevant law. For the reasons set forth in my decision in Case No. 29-RC-172398, I find that the Hospital and MSO constitute a Single Employer. I further find that separate self-determination elections are appropriate for the employees at the Urology practice wherein three separate voting groups, i.e., technical, clerical employees and service employees, will vote whether they wish to be included in the existing bargaining units of Hospital employees.

Background⁴

The Hospital operates a large acute care facility with 650 patient beds and a level one trauma center located at 506 Sixth Street, Brooklyn, New York.⁵

² See, *Globe Machine & Stamping*, 3 NLRB 294 (1937); *Armour & Co.*, 40 NLRB 1333 (1942); *Warner-Lambert Co.*, 298 NLRB 993 (1990). As described more fully below, the parties disagree as to whether there exists one combined unit of professionals and nonprofessionals inasmuch as they are all governed by the same collective bargaining agreement or whether there are a number of separate units which were certified by the Board. In this regard, at the hearing the Petitioner took the position that there was a combined unit of professionals and nonprofessionals. However, in its Memorandum of Points and Authorities, the Petitioner, while stating that all units it represents at the Hospital are covered by the same collective bargaining agreement, represents that if more than one unit exists at the Hospital, if the petitioned-for employees vote in favor of representation, they would join the appropriate unit or units.

³ In this regard, MSO took the position that any unit at the Urology practice should be limited to service and clerical employees at One Prospect Park West. However, it indicated it would be open to a conversation concerning a stand-alone election of service, clerical and technical employees. It is not asserted that petitioned-for positions at all MSO locations should be included in an appropriate bargaining unit.

⁴ I note that in this decision, while I may refer to "MSO employees," such reference is not intended to detract from my finding that the Hospital and MSO constitute a single employer.

⁵ Section 103.30(f) (2) of the Board's Health Care Rule states that an "acute care hospital" shall include those hospitals operating as acute care facilities even if those hospitals provide such services as, for example, long term care, outpatient care, psychiatric care, or rehabilitative care but shall exclude facilities that are primarily nursing homes, primarily psychiatric hospitals, or primarily rehabilitation hospitals.

MSO, a management services organization, was created in April 2010 by the Hospital to provide administrative services to physician practices affiliated with the Hospital.⁶ Such administrative services include staffing, recruitment and human resources functions. MSO provides its services to health care facilities including the Urology practice and the Wound Care Center located at One Prospect Park West, Brooklyn, New York.⁷

As indicated above, the employees at issue work at the Urology practice in Suite C of a facility located at One Prospect Park West, which is about one mile away from the Hospital. The Urology practice provides ambulatory patient care. The record evidence shows that health care services are provided in three other suites and an X-ray room at the One Prospect Park West facility. Suite A (Pediatrics), Suite B (Wound Care Center and Foot and Ankle Center), Suite C (Urology), Suite D (the Spine and Arthritis Center) and the X-Ray room each have a separate entrance, through which patients can enter, along the main hallway.⁸

The name "New York Methodist Medical Associates" is written on the awning over the door at the One Prospect Park West facility. In this regard, the evidence shows that certain physician practices affiliated with the Hospital do business under the name NYM Medical Associates. Indeed, Hospital Assistant Vice President of Ambulatory Sites Jennifer Donovan indicated that the Urology practice is a physician practice; that is part of NYM Medical Associates.⁹ Inside the One Prospect Park West facility, there is a sign in the hallway indicating the direction of "Brooklyn Urology" and there is a sign on the door to Suite C which displays the name "Brooklyn Urology."

Dr. Ivan Grunberger is the Chief Urologist at the Hospital.¹⁰ The evidence indicates that Dr. Grunberger founded a practice, Brooklyn Urology, P.C. which began operating at the One Prospect Park West facility in about 2008 after he became affiliated with the Hospital. The Urology practice at issue is referred to on the record as Brooklyn Urology, P.C. and/or Brooklyn Urology. Dr. Grunberger is the lead/senior practitioner and the main point of contact at the Urology practice. There are four additional doctors at Brooklyn Urology: Dr. Ivan Collon, Dr. Edward Zoltan, Dr. Brent Yanke and Dr. Lauren Schultz.¹¹ The testimony of MSO Human

⁶The Hospital's Consolidated Financial Statements and documentation filed with the NYS Attorney General state that MSO was established to provide administrative personnel to various professional corporations which are controlled tax exempt entities of the Hospital.

⁷ While the parties stipulated to MSO having a location at One Prospect Park West, the evidence does not establish whether MSO owns the property, pays rent for the space at this location or whether there is some other arrangement in place.

⁸ Although the X-ray facility has a door along the main hallway, it is part of Suite B and accessible through Suite B.

⁹ Donovan is responsible for ambulatory sites, including the Urology practice at One Prospect Park West. Donovan testified that NYM Medical Associates was separate from the Hospital but she did not know if it was an incorporated entity. The Hospital's tax documents and financial statements in evidence name various locations of NYM Medical Associates as controlled entities of the Hospital; however, the One Prospect Park West location is not specifically named as a controlled entity.

¹⁰ Grunberger has an administrative office at the Hospital.

¹¹ All five doctors are not in the office at the same time; there are usually two doctors in the office at a time. Urology practice doctors also work in the Hospital's Urology clinic.

Resources Business Partner Kennedy indicates that Brooklyn Urology's practice has three other offices in addition to the One Prospect Park West location.¹² Hospital Assistant Vice President Donovan testified that the Urology practice is a physician practice; physician practices affiliated with the Hospital do not require a license to operate but the physicians at the practice are credentialed through the Hospital's medical affairs department.

Collective bargaining

The Hospital negotiates on a multi-employer basis with 1199 as a member of the League of Voluntary Hospitals and Homes of New York ("LVHH") in connection with service and maintenance, clerical, technical and professional units. It is noted that there is no unit description in the collective bargaining agreement effective June 9, 2009 through April 30, 2015 or the Memorandum of Agreement in effect through September 30, 2018. In this regard, the recognition clause of the collective bargaining agreement states that 1199 is recognized as the collective bargaining representative of all of the employees in the bargaining unit(s) set forth in Stipulation I (between the Hospital and 1199) to be annexed to the agreement. However, a completed Stipulation I is not annexed to the agreement in evidence as Union Exhibit No. 30. The record does contain a Stipulation I from 1987 and a previous version of Stipulation I from 1982. Stipulation I from 1987 states, "The bargaining unit(s) covered by 1199 in Methodist Hospital of Brooklyn referred to in Article 1 of the collective bargaining agreement between 1199 and the League of Voluntary Hospitals and Homes of New York are: (1) Service and Maintenance and (2) Technical and Residual Service and Maintenance."¹³ Further, the record evidence indicates that pursuant to a stipulated election agreement, an election was held in Case No. 29-RC-9326, and 1199 was certified as the representative of all full-time and regular part time professional employees employed by the Employer in the following classifications at the Employer's 506 Sixth Street facility: laboratory techs, dieticians, social workers, recreational therapists, pharmacists, but excluding all other employees, guards and supervisors.¹⁴ This professional unit is not reflected in the 1987 Stipulation I. I note here that 1199 contends that, inasmuch as all units are covered by the same collective bargaining agreement, there is one combined unit of professional and non-professional employees. However, the Hospital contends that 1199 represents separate units of employees previously certified by the Board and that there may be individual agreements that have been negotiated with respect to the separately certified units that are not contained in the one contract. While it is undisputed that all of the separately certified bargaining units fall within the coverage of the one contract, in light of the foregoing evidence of separate bargaining units and the fact that the collective bargaining agreement does not clearly indicate the existence of one combined unit of professional and non-professional employees, there is insufficient evidence on this record to find that the separate units have been effectively merged into a single unit. Rather, as more fully described above, the 1987

¹² These offices are located in Brooklyn, New York at 126 Greenpoint Avenue, 86th Street (in Dyker Heights) and Linden Boulevard. Some of the employees who work at the One Prospect Park West location also work at one of the other locations. I note that an employee indicated that the other locations are not Brooklyn Urology.

¹³ Stipulation I from 1982 only contained the first category, i.e., Service and Maintenance.

¹⁴ Another certification dated December 15, 2010, in Case No. 29-RC-11987, states that 1199 was designated by employees in the category of polysonographic technician and that 1199 may bargain for these employees as part of the existing technical employee bargaining unit it represented.

description appears to set forth two numbered bargaining units – (1) Service and Maintenance and (2) Technical and Residual Service and Maintenance.

The evidence also shows that 1199 represents employees of the Hospital working at off-site facilities, including two Hospital employees (radiology technologists) who regularly take X-rays at the One Prospect Park West, Brooklyn, New York facility. In addition, other Hospital employees who work in the radiology department of the Hospital work in the X-ray room at One Prospect Park West as needed on a rotational basis.¹⁵

The Memorandum of Agreement effective through September 30, 2018, contains an Ambulatory and Primary Care Off-Site Agreement which applies to off-site / out-patient facilities providing ambulatory or primary care, including facilities covered by the Hospital's Article 28 license and physicians' offices with services similar to those provided in the Hospital. This agreement provides that employees of such off-site/ out-patient facilities shall be covered by the terms of the LVHH agreement except for certain modifications if the employees at those facilities vote to be represented by 1199;¹⁶ and that local negotiations (i.e., between the Hospital and 1199) will be held on such "Employer specific terms." The agreement also provides that certain recognition procedures will apply to facilities that fall under the agreement, including that the Hospital will grant lawful recognition upon majority status for all employees employed in positions that appropriately fall within the bargaining unit represented by 1199SEIU at the main hospital campus. The agreement states that lawful recognition will be granted to all employees employed in *positions* that appropriately fall in the existing unit. Thus, the employees' positions or classifications are the controlling factor which the parties agreed upon to be the basis for whether the employees appropriately fall into the existing units. And the parties' dispute in the instant case is whether the Urology practice employees fall within the hospital contract units or belong in a separate unit.

Single Employer Status

A single-employer relationship exists when two or more employing entities are a single-integrated enterprise. The Board applies four criteria to determine whether a single-employer relationship exists. These criteria are: (1) common ownership; (2) common management; (3) functional interrelation of operations; and (4) centralized control of labor relations. *Shane Steel Processing*, 353 NLRB 522 (2008); *Mercy Hospital of Buffalo*, 336 NLRB 1282 (2001). No single factor in the single-employer inquiry is deemed controlling; nor do all of the factors need to be present in order to support a finding of single-employer status. *Dow Chemical Co.*, 326 NLRB 288 (1998); *Flat Dog Productions, Inc.*, 347 NLRB 1179 (2006). "Rather, single-employer status depends on all the circumstances, and is characterized by the absence of the arm's-length relationship found between unintegrated entities." *Dow Chemical Co.*, 326 at 288.

¹⁵ While 1199 stated on the record (and in its memorandum) that it represents Hospital employees in Suite A (Ambulatory Pediatrics) and Suite D (Spine and Arthritis Center) at the One Prospect Park West facility, the Employer stated that it did not so stipulate and there is no record evidence to establish the Petitioner's claim.

¹⁶ The modifications are with respect to three items: work rules adapted to the particular operations; health/pension benefits at a discount from LVHH level; and upon recognition, the first negotiated wage increase will be the most recent LVHH increase.

Applying this standard to the facts in this case, I find that the Hospital and MSO constitute a single employer. As more fully set forth in my recent decision in Case No. 29-RC-172398, the evidence of common ownership, common management, functional interrelation of operations and centralized control of labor relations weighs in favor of single employer status and record evidence indicates an absence of an arm's length relationship between the Hospital and MSO.¹⁷ Indeed, the evidence shows, among other things, that the Hospital wholly owns MSO and that MSO's officers are also the Hospital's Senior Vice President of Finance and the Hospital's Vice President of Human Resources. Further, the Hospital hired MSO's Human Resources Business Partner; the Hospital performed the duties of MSO's Human Resources Partner during a gap after her predecessor left and before she was hired; the Hospital's approval is required on employee status changes such as hiring and wage increases; the Hospital's general accounting department processes MSO's payroll; the Hospital is the policy holder for MSO's health benefits and MSO employees are covered under the Hospital's disability and workers' compensation insurance. MSO's address is the same address as the Hospital's address, 506 Sixth Street, Brooklyn, NY¹⁸ and MSO's Human Resources Business Partner has her office in the same building and on the same floor as the Hospital's human resources department. Additionally, the Hospital's tax documents in evidence indicate that MSO is a controlled entity of the Hospital; and the notes to the Hospital's Consolidated Financial Statements state that MSO is part of the reporting entity referred to as the Hospital.¹⁹

The Status of the Urology Practice

The Hospital's Outpatient Guide lists the Urology practice as the "Urology Faculty Practice, One Prospect Park West. " and refers to it as "The Hospital's Urology practice."²⁰ The Hospital's Outpatient Guide also refers to its urologic oncology service at One Prospect Park West.²¹

MSO refers to the Urology practice as MSO Urology. MSO's position statement refers to the Urology practice as its Urology practice.

¹⁷ As noted in my decision in Case No. 29-RC-172398, while the Petitioner seeks a number of adverse inferences be drawn based on the Hospital's/MSO's failure to comply with subpoenas, I make the above findings on the record evidence and find it unnecessary to draw adverse inferences.

¹⁸ MSO uses this address on its letterhead and various other documents. This is also the address information for MSO contained in the database of the Department of State, Division of Corporations.

¹⁹ More specifically, the notes to the Hospital's Consolidated Financial Statements state that the reporting entity resulting from the consolidation of New York Methodist Hospital, South Brooklyn Health Center (through January 2012 inasmuch as SBHC was sold), the professional corporations and MSO is referred to in the consolidated financial statements as the Hospital. (Union Exhibit No. 37, notes page 9)

²⁰ Petitioner Exhibit No.36 page 15.

²¹ I note that the evidence also indicates that the Urology practice located at One Prospect Park West is assisted by the Hospital in administering its services. In this regard, the Hospital's Assistant Vice President of Ambulatory Services Jennifer Donovan testified that the Hospital assists off-site physician practices, i.e., the Urology practice, in administering their services; she gives advice on regulatory issues mostly related to patient safety issues in connection with Department of Health regulations.

As indicated above, the Urology practice at issue is also referred to as Brooklyn Urology on the record.²² The testimony of one employee witness indicated that Brooklyn Urology's corporate name changed. Indeed, the employee testified that she thinks Brooklyn Urology P.C. is now part of a group of specialty physicians from the Hospital referred to as "Park Slope Physician Services, P.C."²³ None the less, this employee witness also testified that the Urology practice is still called Brooklyn Urology.

The record evidence indicates that the Urology practice/Brooklyn Urology, a professional corporation, has a controlling interest / involvement in matters related to the employment of the petitioned-for employees. In this regard, the evidence indicates that Brooklyn Urology contracts with MSO to provide staffing/administrative services.²⁴ Further, the founding physician of the Urology practice is involved in probation meetings, the interview process and granting wage increases for employees in the petitioned-for unit.²⁵ And, recently hired employees have been issued identification badges that state "NYM, New York Methodist Hospital" and "Brooklyn Urology, P.C."²⁶ Brooklyn Urology sends out mailings with its own letterhead. Brooklyn Urology has its own website, "Brooklyn Uro."

²² Further, various employment documents related to employees working at the Urology practice indicate Brooklyn Urology as their department including: Employee Status Change Forms, Personnel Requisitions, Direct Deposit forms, Human Resources Pre-registration Forms. Similarly, a Position Manager job listing for a Physician Assistant at the Urology practice indicates the name of the Hospital, lists the facility as MSO and the department as Brooklyn Urology, P.C. and Applications for Employment (displaying the Hospital's name or MSO's name) also indicate the department as Brooklyn Urology.

²³ The Hospital's tax documents and the consolidated financial statements in evidence indicate that Park Slope Physician Services, P.C. is a controlled entity of the Hospital.

²⁴ MSO's Human Resources Business Partner Joanne Kennedy testified that Brooklyn Urology, PC contracts with MSO (to provide its staffing services) but then testified that she is unaware of a contract between Brooklyn Urology and MSO.

²⁵ The testimonies of petitioned-for Urology practice employees show that if they are going to be out sick or late, they call MSO's office manager for the Urology practice at One Prospect Park West (Suzanne Dinnerstein-Wood) or Dr. Grunberger. An employee testified that if she wanted to change her hours, she would ask the office manager or Dr. Grunberger. The evidence also shows that in addition to being interviewed by MSO's Human Resources Business Partner and the office manager, Dr. Grunberger meets with candidates for employment at the Urology practice during the interview process. Both the office manager and Dr. Grunberger meet with employees related to their probation after three months of employment. Further, Dr. Grunberger discussed a wage increase with an employee working at the Urology practice; he told her that she would receive the wage increase even though she was a few days short on her length of employment; and, that he and the office manager contacted Hospital Assistant Vice President Donovan about including her as an employee to receive the wage increase and Donovan approved it. When asked about this Donovan admitted that "the office" consulted with her about giving this employee the raise and she did not object. Office hours at the Urology practice are set by the doctors or the office manager. The office manager or the doctors speak to the petitioned-for employees about their work performance. Doctors at the Urology practice instruct the petitioned-for employees to perform certain tasks at the Urology practice related to patient care. Finally, the evidence shows that a meeting was held at One Prospect Park West about 1199's organizing efforts. Present at the meeting were Dr. Grunberger, Office Manager Suzanne Dinnerstein and the rest of the staff excluding temporary employees and other doctors.

²⁶ The evidence shows that a Hospital Human Resources employee issues the identification badges. There is a yellow band of color on the identification of employees who work in the Urology practice, indicating contractor status. Employees who work at the Hospital have identification with a blue band of color.

Inasmuch as the Petitioner has not named the Urology practice, i.e., Brooklyn Urology, as an employing entity on the petition, I do not make a finding as to the status of the Urology practice/Brooklyn Urology.

The Appropriate Unit

It is well settled that a petitioned-for unit need only be *an* appropriate unit, not the only or the most appropriate unit. See *Specialty Healthcare & Rehabilitation Center of Mobile*, 357 NLRB 934, 940 (2011).

A self-determination election, also referred to as an *Armour-Globe* election, is the proper method by which a union may add unrepresented employees to an existing unit. See, *Globe Machine & Stamping*, 3 NLRB 294 (1937); *Armour & Co.*, 40 NLRB 1333 (1942); *Warner-Lambert Co.*, 298 NLRB 993 (1990). The petitioned-for employees need not constitute a separate appropriate unit by themselves in order to be added to an existing unit. *Warner-Lambert Co.*, *supra*; *St. Vincent Charity Medical Center*, 357 NLRB 854 (2011). Further, a self-determination election may be appropriate regardless of whether the petitioned-for employees may be found to be a separate appropriate unit. *Great Lakes Pipe Line Co.*, 92 NLRB 583, 584 (1950). The appropriateness of a self-determination election depends on the extent to which the employees to be included share a community of interest with the existing unit of employees and whether they constitute an identifiable, distinct segment so as to constitute an appropriate voting group. *St. Vincent Charity Medical Center*, *supra*.

In determining whether a petitioned-for multi-facility unit is appropriate, the Board evaluates the following community-of-interest factors among employees working at the different locations: similarity in employees' skills, duties, and working conditions; centralized control of management and supervision; functional integration of business operations, including employee interchange; geographic proximity; bargaining history; and extent of union organization and employee choice. *Exemplar, Inc.*, 363 NLRB No. 157 (2016); *Clarian Health Partners, Inc.*, 344 NLRB 332, 334 (2005).²⁷

Insofar as there are separate existing units, the Petitioner seeks self-determination elections in separate voting groups pursuant to *Armour-Globe* to determine whether the physician assistants, office assistants, administrative assistants, clinical assistants (LPNs) and patient/medical assistant employed by the Hospital/MSO (herein collectively referred to as the Employer) at the Urology practice located at One Prospect Park West wish to be included in the corresponding existing units of professional, clerical, technical and/or service employees. The Petitioner does not seek to create separate, additional units. In these circumstances, the proper analysis is whether the employees in the proposed voting group share a community of interest with the currently represented employees and whether they constitute an identifiable, distinct

²⁷ In *Specialty Healthcare*, 357 NLRB 934 (2011) the Board found obsolete the "empirical" or "pragmatic" community-of-interest test previously used in determining unit appropriateness in nonacute care health care facilities and returned to the traditional community-of-interest approach. Under the empirical or pragmatic test, the Board considered traditional community-of-interest factors, as well as the factors considered relevant by the Board in the Rulemaking.

segment. *St. Vincent Charity Medical Center*, 357 NLRB 854 (2011). See also, *Rush Medical Center*, 362 NLRB No. 23 (2015); 362 NLRB No. 163 (2015).

I note that the Employer, in its Memorandum of Points and Authorities asserts that the petitioned-for unit “violates the Board’s well-established single-facility presumption.” However, when a union seeks to represent a multi-facility unit, the presumptive appropriateness of a single-facility unit is inapplicable. See *Sleepy’s Inc.*, 355 NLRB 132 (2010); *Capital Coors Co.*, 309 NLRB 322, fn. 1 (1992). Instead, the Board applies its traditional community-of-interest analysis.

It is further noted that the Board’s Health Care Rule does not address the issue of the appropriateness of a single facility when an employer owns a number of facilities, which the Board continues to address through adjudication.²⁸ See e.g., *Presbyterian Hospital* 88 F. 3d 1300 (3rd Cir. 1996); *Sutter West Bay Hospitals*, 357 NLRB 197, 198 (2011); *Clarian Health Partners, Inc.*, *supra*. Thus, inasmuch as the Health Care Rule does not resolve issues of multiple facilities of a single employer hospital, analysis regarding the number of facilities to be included in a unit of professional, technical, service or clerical employees is still appropriate.

Multi-employer unit issues

As indicated above, the Employer contends that the Hospital and MSO do not constitute a single employer and argues that even assuming they are joint employers, the petitioned-for unit is inappropriate because employer consent is not present herein.

The Board has held that petitioned-for bargaining units that combine solely employed employees and jointly employed employees are multi-employer units, and may only be appropriate with the consent of the parties. *Oakwood Care Center*, 343 NLRB 659 (2004). The Board found that combining such employees into one unit contravenes Section 9(b) of the Act by requiring different employers to bargain together regarding employees in the same unit.

I find that the units in this case do not violate the holding of *Oakwood Care Center* inasmuch as the Hospital and MSO constitute a single employer and thus, consent is not required. Further, no party raises the issue of a multi-employer unit due to the involvement of the Urology practice a.k.a. Brooklyn Urology. Indeed, the petition names only the Employer and not Brooklyn Urology. Thus, the Petitioner is not seeking to impose a bargaining obligation on Brooklyn Urology as a separate employing entity and there is no requirement for Brooklyn Urology to consent. Compare, *Oakwood Care Center* (where the petitioning union named both joint employers, not one of them, on the petition and neither consented to bargaining with the other in a multi-employer unit, such unit was impermissible and the petition was dismissed). See also, *Bergman Brothers Staffing, Inc.*, Case No. 05-RC-105509.

²⁸ Also, in *Virtua Health, Inc.*, 344 NLRB 604 (2005), the Board declined ruling on whether the Health Care Rule applied to an employer’s system of health care facilities.

Appropriateness of Self-Determination election for Clinical Assistant (LPN), Administrative Assistant, Office Assistant and Patient/Medical Assistant

The parties stipulated that the clinical assistant (LPN) is a technical position. The parties also stipulated that the administrative assistant and office assistant positions are both clerical positions and the patient/medical assistant is a service position. Clinical assistants (LPNs), administrative assistants, office assistants and patient assistants are represented by the Petitioner at the Hospital under existing units. Thus, at the hearing, the Employer indicated that such petitioned-for positions would appropriately be included in the existing technical, clerical and service units if I found single employer status or if I found that the petitioned-for employees may be added to the existing units of employees working at the Hospital. However, the Employer contends self-determination elections would not be appropriate because, among other things, (1) the existing units specifically include certain employees working at the 506 Sixth Street facility and thus exclude employees working at the One Prospect Park West facility; (2) such elections would cause undue proliferation of bargaining units; and (3) there is a lack of a community of interest between the employees working in the Urology practice at One Prospect Park West and the employees in the existing unit.²⁹ With regard to the first argument, as noted below, language set forth in a unit description of a certification and/or language in a contract clause that excludes a particular group of employees from coverage does not bar a union from seeking to represent those employees via a self-determination election during the contract's term. See *UMass Memorial Medical Center*, 349 NLRB 369 (2007); *Women & Infants' Hospital Of Rhode Island*, 333 NLRB 479 (2001). With regard to the argument that self-determination elections would cause undue proliferation of bargaining units, such elections would seek to add the technical, clerical and service positions herein to the existing technical, clerical and service units rather than creating additional, residual units. See e.g., *St. Vincent Charity Medical Center*, *supra*. With regard to the Employer's third argument concerning a lack of a community of interest, I begin by noting that the evidence shows that there are bargaining unit employees working at the One Prospect Park West facility. In this regard, there are radiology technologists working for the Hospital at the One Prospect Park West facility.³⁰

Further, the Memorandum of Agreement effective through September 30, 2018, shows that the Hospital, through LVHH, agreed that certain recognition procedures would apply to off-site/outpatient facilities, including physicians' offices providing ambulatory or primary care under the Hospital. Indeed, the agreement noted that the Hospital would grant lawful recognition upon majority status for all employees in positions that appropriately fall within the bargaining unit represented by 1199 at the main hospital campus.³¹ The agreement recognized certain differences, such as the fact that the off-site facilities are not 24/7 operations, in noting that the

²⁹ I also note that MSO stated a willingness to consider an election for a stand-alone unit of certain clerical technical and service employees at One Prospect Park West. However, even assuming the Employer took the position that such unit was appropriate, a self-determination election may be appropriate regardless of whether petitioned-for employees may be found to be a separate appropriate unit. See, *Great Lakes Pipe Line Co.*, *supra*.

³⁰ As noted above, while the Petitioner asserts that it represents employees at the Ambulatory Pediatrics suite and the Spine and Arthritis suite at One Prospect Park West, the Employer stated that it did not stipulate to such and there is no record evidence to establish the Petitioner's claim.

³¹ As indicated, the Employer agreed the clinical assistant (LPN), Administrative Assistant, Office Assistant and Patient/Medical Assistant positions at issue here would appropriately fall within the existing technical, clerical and service units and those positions at the Hospital are represented by the Petitioner.

employees shall be covered by the collective bargaining agreement, except as modified as to three specified items.

Accordingly, the evidence indicating a history of 1199 representing Hospital employees at One Prospect Park West, and the evidence that the Hospital (through LVHH) has bargained with 1199 concerning the shift to out-patient care delivered at off-site outpatient facilities and the application of the contract to employees working at such facilities, combined with my finding herein that the Hospital and MSO are a single employer, favor a finding that the self-determination elections in the three separate voting groups of technical, clerical and service employees, are appropriate. Furthermore, the Urology practice at One Prospect Park West is only about one mile away from the Hospital. The Urology practice employees are subject to many Hospital policies and share similar benefits as the Hospital employees, such as tuition reimbursement. Employees at the Urology practice also attend orientation with Hospital employees. The Hospital's general accounting department processes the Urology practice employees' payroll; the Hospital's leave department processes the Urology practice employees' leave; and, the Urology practice employees refer about 7 to 10 patients a day to the Hospital's X-ray room. And, while there is no evidence of employee interchange, petitioned-for employees have some daily contact with Hospital employees, such as the Hospital's courier and the radiology technologists. In this regard, employees at the Urology practice speak to the radiology technologists when they give them paperwork for patients that require X-rays. Further, while there is local autonomy on day to day staffing issues and hiring decisions, Hospital representatives finalize all employee status changes and wage increases. Thus, I find that the clinical assistants (LPNs), administrative assistants, office assistants and the patient/medical assistant working at the Urology practice at One Prospect Park West share a community of interest with the respective existing technical, clerical or service unit of employees at the Hospital.

I also find that the clinical assistants (LPNs) constitute a distinct, identifiable segment of the Employer's unrepresented employees. This voting group is identifiable based on skill, classification and function. The clinical assistants are classified as technical employees and they work in the same suite at the One Prospect Park facility. The voting group description is sufficient to specify the employees the Petitioner seeks to include. Similarly, the administrative and office assistants constitute a distinct, identifiable voting group. The parties agree that administrative assistants and office assistants are clerical employees. It is clear which classifications, i.e., administrative assistants and office assistants are in the voting group; the voting group is sufficient to specify the employees the Petitioner seeks to include. See *DPI Secuprint, Inc.*, 362 NLRB No. 172 fn. 10 (2015) (A group is "identifiable" so long as its description is sufficient to specify the employees the petitioner seeks to include). Likewise, the patient/medical assistant constitutes a distinct identifiable voting group. The parties agree that the patient/medical assistant is a service position. The patient/medical assistant is identifiable based on her classification. In this regard, I note that a voting group of one employee is permissible inasmuch as the certified bargaining unit would be more than a one employee unit. *Unisys Corp.*, 354 NLRB 825 (2009); *Chrysler Corporation*, 194 NLRB 183 fn. 4 (1971).

Thus, I find that three self-determination elections are appropriate herein.

Appropriateness of Self-Determination election for Physician Assistants

An *Armour-Globe* self-determination election permits employees sharing a community of interest with an already-represented unit of employees to vote on whether to join the existing unit. *Globe Machine & Stamping, supra*; *Armour & Co., supra*. The Board has held that a contract clause excluding a particular group of employees from its coverage does not bar a union from seeking to represent those employees via a self-determination election during the contract's term. See *UMass Memorial Medical Center*, 349 NLRB 369 (2007); *Women & Infants' Hospital Of Rhode Island*, 333 NLRB 479 (2001).³²

The parties stipulated that physician assistants are professional employees. As mentioned above, after an election held pursuant to a stipulated election agreement, 1199 was certified as the representative of all full-time and regular part time professional employees employed by the Employer in the following classifications at the Employer's 506 Sixth Street facility: laboratory techs, dieticians, social workers, recreational therapists, pharmacists, but excluding all other employees, guards and supervisors. It is undisputed that the Employer employs physician assistants at the Hospital but the Petitioner does not represent physician assistants at the Hospital. The Petitioner in the instant matter seeks only the two physician assistants working at the Urology practice in the One Prospect Park West facility and does not seek to represent physician assistants working at the Hospital. It is also undisputed that the physician assistants at the Hospital are not represented by any other union. The record does not contain evidence regarding the skills and duties of the laboratory techs, dieticians, social workers, recreational therapists or pharmacists in the existing professional unit at the Hospital.

Inasmuch as there is no express promise by the Petitioner that it would not to seek to represent the Employer's physician assistants, the Petitioner is not precluded from seeking to represent physician assistants via a self-determination election simply because they were excluded from the existing professional unit. See e.g., *UMass Memorial Medical Center, supra*; *Women & Infants' Hospital Of Rhode Island, supra*. However, considering the record herein and the fact that physician assistants working at the Hospital are not included in the existing professional unit, I find that there is insufficient evidence to establish a community of interest between the physician assistants working at One Prospect Park West and the existing professional unit of employees at the Hospital. In this regard, the evidence shows that the two physician assistants sought by the Petitioner herein perform the duties of and are classified as physician assistants. They can prescribe medicine, are licensed and work with doctors performing procedures. Indeed, the Employer's attorney stated on the record that physician's

³² In *Women & Infants' Hospital Of Rhode Island, supra*, the issue before the Board was whether a regional director properly directed a self-determination election among members of an excluded classification. More specifically, the union was certified as the exclusive collective-bargaining representative of all technical employees—excluding, inter alia, respiratory therapists—at the employer's Providence, Rhode Island hospital. The employer and the union were parties to successive collective-bargaining agreements, and although the parties modified the original bargaining unit, the respiratory therapists had never been included in the unit. The Board held that since there is no express promise by the union not to seek to represent the respiratory therapists, the exclusionary language did not constitute a bar to a self-determination election for the respiratory therapists. Similarly, in *UMass Memorial Center, supra*, the Board upheld the regional director's decision to direct a self-determination election in a group of per diem employees performing the same job duties as the full-time and regular part-time EMT/Intermediate and EMT/Paramedic employees who were included in the unit where per diem employees were excluded.

assistants can diagnose and treat patients at a high level. However, there is no comparative evidence in connection with the included classifications of employees in the existing professional unit, i.e., the laboratory techs, dieticians, social workers, recreational therapists and pharmacists. Accordingly, in these circumstances, I find that a self-determination election in a voting group consisting of the physician assistants working at the Urology practice at One Prospect Park West only is inappropriate.

Appropriateness of Separate Residual Unit of Physician Assistants

Alternatively, the Petitioner seeks a separate residual unit of physician assistants working at the Urology practice in the One Prospect Park West facility. In this regard, the Board will not entertain an incumbent union's petition for a separate, residual unit. *St. John's Hospital*, 307 NLRB 767 (1992); *St. Vincent Charity Medical Center*, 357 NLRB 854 (2011) at fn. 9. Further, as noted by the Board in *St. John's Hospital*, *supra*, to the extent the Petitioner seeks an additional separate unit of physician assistants at One Prospect Park West, a petitioning union is required to include all unrepresented employees residual to the existing unit. Here, the evidence shows that there are additional unrepresented employees at the Urology practice, i.e., a clinical nurse and two per diem clinical nurses that the Petitioner does not seek to represent. In light of the foregoing, I find a separate unit of physician assistants inappropriate. *See St. John's Hospital, supra.*³³

Accordingly, I do not direct an election in connection with the physician assistants herein.

Conclusions

Based upon the entire record in this matter and for the reasons set forth above, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.
2. The Hospital and MSO, herein collectively referred to as the Employer, constitute a single employer. The Employer is engaged in commerce within the meaning of the Act, and it

³³ I note here that *St. Vincent Charity Medical Center*, the Board distinguished *St. John's Hospital* and found that a union is not required under the Health Care Rule to include all remaining unrepresented residual employees when seeking to add employees to its existing unit as opposed to an incumbent union's petition for a separate, residual unit.

will effectuate the purposes of the Act to assert jurisdiction in this case.³⁴

3. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The following groups of employees of the Employer constitute appropriate voting groups for purposes of the self-determination elections directed herein:

Voting Group A

All full-time and regular part-time administrative assistants and office assistants employed by the Employer in the Urology practice located at One Prospect Park West, Brooklyn, New York, excluding all other employees, guards, and supervisors as defined in Section 2(11) of the Act.

If a majority of the valid ballots in the election are cast for the Petitioner, the employees in the above voting group A will be deemed to have indicated their desire to be included in the existing clerical employee bargaining unit currently represented by the Petitioner, and it shall bargain for those employees as part of that unit. If a majority of the valid ballots are cast against representation, the employees will be deemed to have indicated their desire to remain unrepresented, and a certification of results of election will issue to that effect.

Voting Group B

All full-time and regular part-time clinical assistants (LPNs) employed by the Employer in the Urology practice located at One Prospect Park West, Brooklyn, New York, excluding all other employees, guards, and supervisors as defined in Section 2(11) of the Act.

If a majority of the valid ballots in the election are cast for the Petitioner, the employees in the above voting group B will be deemed to have indicated their desire to be included in the

³⁴ The parties stipulated that New York Methodist Hospital, a New York not for profit corporation, with a location at 506 Sixth Street, Brooklyn, New York, is engaged in providing health care services, as an acute care hospital. During the past year, which is representative of its annual operations generally, New York Methodist Hospital derived gross annual revenues in excess of \$250,000 and purchased and received at its 506 Sixth Street facility, goods and materials valued in excess of \$5,000 from persons outside the State of New York. The parties also stipulated that MSO of Kings County, LLC, a New York limited liability corporation, with a location at One Prospect Park West, Brooklyn, New York, is a management services organization engaged in providing administrative services to physician practices. During the past year, which is representative of its annual operations generally, MSO of Kings County, LLC derived gross annual revenues in excess of \$250,000 and purchased and received at its One Prospect Park West facility, goods and materials valued in excess of \$5,000 from persons outside the State of New York.

existing technical employee bargaining unit currently represented by the Petitioner, and it shall bargain for those employees as part of that unit. If a majority of the valid ballots are cast against representation, the employees will be deemed to have indicated their desire to remain unrepresented, and a certification of results of election will issue to that effect.

Voting Group C

All full-time and regular part-time patient/medical assistants employed by the Employer in the Urology practice located at One Prospect Park West, Brooklyn, New York, excluding all other employees, guards, and supervisors as defined in Section 2(11) of the Act.

If a majority of the valid ballots in the election are cast for the Petitioner, the employees in the above voting group C will be deemed to have indicated their desire to be included in the existing service employee bargaining unit currently represented by the Petitioner, and it shall bargain for those employees as part of that unit. If a majority of the valid ballots are cast against representation, the employees will be deemed to have indicated their desire to remain unrepresented, and a certification of results of election will issue to that effect.

Direction of Election

The National Labor Relations Board will conduct secret ballot elections among the employees in the voting groups found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by **1199 SEIU, United Healthcare Workers East**.

A. Election Details

The elections will be held simultaneously on **July 8, 2016**, from 10:30 a.m. to 11:30 a.m., in the lunchroom of Suite C at the Employer's facility located at One Prospect Park West, Brooklyn, New York.

B. Voting Eligibility

Eligible to vote are those in the voting group who were employed during the payroll period ending **June 11, 2016**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible to vote are all employees in the voting group who have worked an average of four (4) hours or more per week during the 13 weeks immediately preceding the eligibility date for the election.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well

as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

C. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, for each election, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, each of the lists must be *received* by the regional director and the parties by **June 28, 2016**. Each list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlr.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, for each of the voting groups, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees.

The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution.

Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

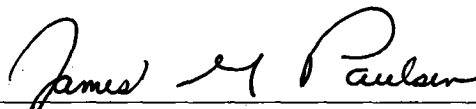
RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 14 days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to www.nlr.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated, the 24th day of June, 2016.

A handwritten signature in dark ink, reading "James G. Paulsen". The signature is fluid and cursive, with the first name "James" and last name "Paulsen" being more prominent than the middle initial "G".

James G. Paulsen
Regional Director, Region 29
National Labor Relations Board
Two MetroTech Center, 5th Floor
Brooklyn, New York 11201



United States of America
National Labor Relations Board
NOTICE OF ELECTION



PURPOSE OF ELECTION: This election is to determine the representative, if any, desired by the eligible employees for purposes of collective bargaining with their employer. A majority of the valid ballots cast will determine the results of the election. Only one valid representation election may be held in a 12-month period.

SECRET BALLOT: The election will be by SECRET ballot under the supervision of the Regional Director of the National Labor Relations Board (NLRB). A sample of the official ballot is shown on the next page of this Notice. Voters will be allowed to vote without interference, restraint, or coercion. Electioneering will not be permitted at or near the polling place. Violations of these rules should be reported immediately to an NLRB agent. Your attention is called to Section 12 of the National Labor Relations Act which provides: ANY PERSON WHO SHALL WILLFULLY RESIST, PREVENT, IMPEDE, OR INTERFERE WITH ANY MEMBER OF THE BOARD OR ANY OF ITS AGENTS OR AGENCIES IN THE PERFORMANCE OF DUTIES PURSUANT TO THIS ACT SHALL BE PUNISHED BY A FINE OF NOT MORE THAN \$5,000 OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BOTH.

ELIGIBILITY RULES: Employees eligible to vote are those described under the VOTING UNIT on the next page and include employees who did not work during the designated payroll period because they were ill or on vacation or temporarily laid off, and also include employees in the military service of the United States who appear in person at the polls. Employees who have quit or been discharged for cause since the designated payroll period and who have not been rehired or reinstated prior to the date of this election are *not* eligible to vote.

SPECIAL ASSISTANCE: Any employee or other participant in this election who has a handicap or needs special assistance such as a sign language interpreter to participate in this election should notify an NLRB Office as soon as possible and request the necessary assistance.

PROCESS OF VOTING: Upon arrival at the voting place, voters should proceed to the Board agent and identify themselves by stating their name. The Board agent will hand a ballot to each eligible voter. Voters will enter the voting booth and mark their ballot in secret. **DO NOT SIGN YOUR BALLOT.** Fold the ballot before leaving the voting booth, then personally deposit it in a ballot box under the supervision of the Board agent and leave the polling area.

CHALLENGE OF VOTERS: If your eligibility to vote is challenged, you will be allowed to vote a challenged ballot. Although you may believe you are eligible to vote, the polling area is not the place to resolve the issue. Give the Board agent your name and any other information you are asked to provide. After you receive a ballot, go to the voting booth, mark your ballot and fold it so as to keep the mark secret. **DO NOT SIGN YOUR BALLOT.** Return to the Board agent who will ask you to place your ballot in a challenge envelope, seal the envelope, place it in the ballot box, and leave the polling area. Your eligibility will be resolved later, if necessary.

AUTHORIZED OBSERVERS: Each party may designate an equal number of observers, this number to be determined by the NLRB. These observers (a) act as checkers at the voting place and at the counting of ballots; (b) assist in identifying voters; (c) challenge voters and ballots; and (d) otherwise assist the NLRB.



United States of America
National Labor Relations Board
NOTICE OF ELECTION



VOTING UNIT

Voting Group A

EMPLOYEES ELIGIBLE TO VOTE:

Those eligible to vote are: All full-time and regular part-time administrative assistants and office assistants who were employed by the Employer in the Urology practice located at One Prospect Park West, Brooklyn, New York, during the payroll period ending June 11, 2016.

EMPLOYEES NOT ELIGIBLE TO VOTE:

Those not eligible to vote are: All other employees, guards, and supervisors as defined in Section 2(11) of the Act.

If a majority of the valid ballots in the election are cast for the Petitioner, the employees in the above voting group A will be deemed to have indicated their desire to be included in the existing clerical employee bargaining unit currently represented by the Petitioner, and it shall bargain for those employees as part of that unit. If a majority of the valid ballots are cast against representation, the employees will be deemed to have indicated their desire to remain unrepresented, and a certification of results of election will issue to that effect.

Voting Group B

EMPLOYEES ELIGIBLE TO VOTE:

Those eligible to vote are: All full-time and regular part-time clinical assistants (LPNs) who were employed by the Employer in the Urology practice located at One Prospect Park West, Brooklyn, New York, during the payroll period ending June 11, 2016.

EMPLOYEES NOT ELIGIBLE TO VOTE:

Those not eligible to vote are: All other employees, guards, and supervisors as defined in Section 2(11) of the Act.

If a majority of the valid ballots in the election are cast for the Petitioner, the employees in the above voting group B will be deemed to have indicated their desire to be included in the existing technical employee bargaining unit currently represented by the Petitioner, and it shall bargain for those employees as part of that unit. If a majority of the valid ballots are cast against representation, the employees will be deemed to have indicated their desire to remain unrepresented, and a certification of results of election will issue to that effect.

Voting Group C

EMPLOYEES ELIGIBLE TO VOTE:

Those eligible to vote are: All full-time and regular part-time patient/medical assistants who were employed by the Employer in the Urology practice located at One Prospect Park West, Brooklyn, New York, during the payroll period ending June 11, 2016.

EMPLOYEES NOT ELIGIBLE TO VOTE:

Those not eligible to vote are: All other employees, guards, and supervisors as defined in Section 2(11) of the Act.

If a majority of the valid ballots in the election are cast for the Petitioner, the employees in the above voting group C will be deemed to have indicated their desire to be included in the existing service employee bargaining unit currently represented by the Petitioner, and it shall bargain for those employees as part of that unit. If a majority of the valid ballots are cast against representation, the employees will be deemed to have indicated their desire to remain unrepresented, and a certification of results of election will issue to that effect.





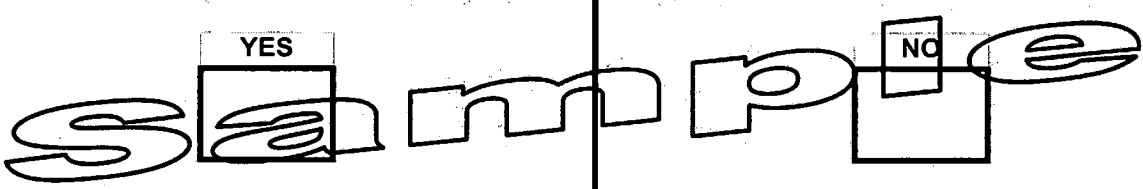
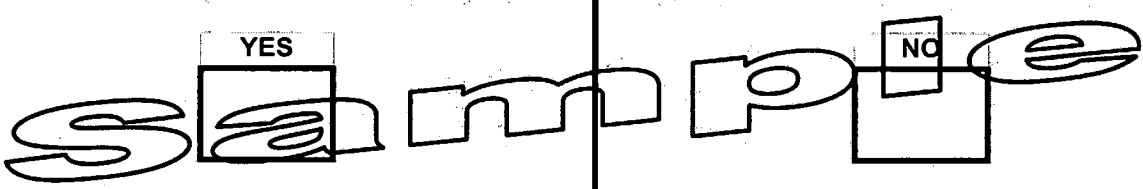
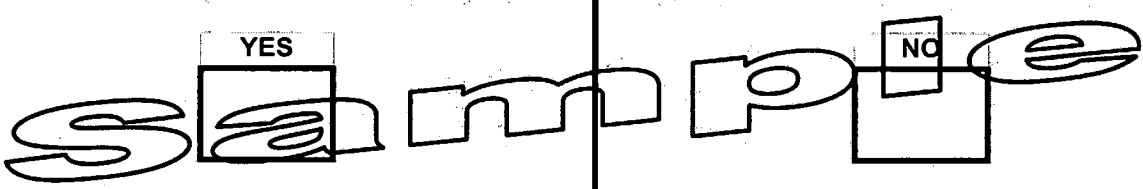
United States of America
National Labor Relations Board
NOTICE OF ELECTION



DATE, TIME AND PLACE OF ELECTION FOR VOTING GROUP A, B, & C

Friday, July 8, 2016	10:30AM to 11:30AM	In the lunch room of Suite C, located at the Employer's facility at 1 Prospect Park W, Brooklyn, NY.
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EMPLOYEES ARE FREE TO VOTE AT ANY TIME THE POLLS ARE OPEN.

	<p>UNITED STATES OF AMERICA National Labor Relations Board 29-RC-172410</p> <p>OFFICIAL SECRET BALLOT</p> <p>For certain employees of NEW YORK METHODIST HOSPITAL/MSO OF KINGS COUNTY, LLC</p>			
<p>Do you wish to be represented for purposes of collective bargaining by 1199SEIU UNITED HEALTHCARE WORKERS EAST?</p>				
<p>MARK AN "X" IN THE SQUARE OF YOUR CHOICE</p>				
<table border="1"><tr><td><div>YES</div><div></div></td><td><div>NO</div><div></div></td></tr></table>			<div>YES</div> <div></div>	<div>NO</div> <div></div>
<div>YES</div> <div></div>	<div>NO</div> <div></div>			
<p>DO NOT SIGN THIS BALLOT. Fold and drop in the ballot box.</p> <p>If you spoil this ballot, return it to the Board Agent for a new one.</p> <p>The National Labor Relations Board does not endorse any choice in this election. Any markings that you may see on any sample ballot have not been put there by the National Labor Relations Board.</p>				



United States of America
National Labor Relations Board
NOTICE OF ELECTION



RIGHTS OF EMPLOYEES - FEDERAL LAW GIVES YOU THE RIGHT TO:

- Form, join, or assist a union
- Choose representatives to bargain with your employer on your behalf
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities
- In a State where such agreements are permitted, the Union and Employer may enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the Union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the Union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustment).

It is the responsibility of the National Labor Relations Board to protect employees in the exercise of these rights.

The Board wants all eligible voters to be fully informed about their rights under Federal law and wants both Employers and Unions to know what is expected of them when it holds an election.

If agents of either Unions or Employers interfere with your right to a free, fair, and honest election the election can be set aside by the Board. When appropriate, the Board provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with the rights of employees and may result in setting aside of the election:

- Threatening loss of jobs or benefits by an Employer or a Union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An Employer firing employees to discourage or encourage union activity or a Union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or the mail ballots are dispatched in a mail ballot election
- Incitement by either an Employer or a Union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a Union or an Employer to influence their votes

The National Labor Relations Board protects your right to a free choice.

Improper conduct will not be permitted. All parties are expected to cooperate fully with this Agency in maintaining basic principles of a fair election as required by law.

Anyone with a question about the election may contact the NLRB Office at (718)330-7713 or visit the NLRB website www.nlr.gov for assistance.